

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **SEN. JOHN C. BOHLINGER**, on February 18, 1999
at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 424, 2/15/1999; SB 426,
2/15/1999
Executive Action: SB 426

HEARING ON SB 426

Sponsor: SENATOR MIKE SPRAGUE, SD 6, BILLINGS

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings, said that in 1995 it was decided to do a feasibility study of whether or not the state of Montana would consider an opportunity to develop a foreign capital depository, or an off-shore banking state. The goal of the committee in the process was to find some tax relief for the taxpayers of Montana. He handed out an Update on Montana Foreign Capital Depositories, dated 6/22/98, **EXHIBIT(tas40a01)**, which indicated that at that time there had been in excess of 250 inquiries.

SEN. SPRAGUE said the idea of this bill is to ensure that should there ever be any revenue generated from this program, at least 50% of it will go back to the citizens of Montana. He then handed out a Brief Overview of the Montana Foreign Capital Depository program, **EXHIBIT(tas40a02)**.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. DEPRATU asked if there was any assurance that people who are not citizens of Montana could not claim funds on this income, and **SEN. SPRAGUE** said that this would be determined by those who file income tax in the state of Montana. **SEN. DEPRATU** asked then, since it was to be determined on a per capita basis, whether a person who claims five dependents on his income tax form could receive refunds for each of those dependents, and **SEN. SPRAGUE** said that line 24, page 1, of the bill indicates that a married filing jointly income tax return would be entitled to one refund. He also pointed out that there would not be a refund of less than \$10.

SEN. ELLIS asked if there had been any institution so far which participated as a depository, and **SEN. SPRAGUE** said that no institution had participated. He said of the inquiries that have come into the Department of Commerce, generally three out of four are from depositors and the other one is from depositories.

SEN. DEVLIN asked why **SEN. SPRAGUE** did not sign the Fiscal Note, and he responded that he didn't feel that the \$22,500 the Department had requested for upgraded equipment was necessary. **SEN. DEVLIN** then asked how much the Department of Commerce gets to handle this program, and **SEN. SPRAGUE** said they do not receive funding for this. **SEN. DEVLIN** then asked the Department of Revenue why it was necessary to upgrade to provide a refund, when

two sessions ago they were set up to provide a refund at that time, and **Larry Finch, Department of Revenue**, said that when the Department prepared the Fiscal Note, this was information they received from their Information Technology Bureau, which stated that they would need to show that amount of revenue on the Fiscal Note as an additional expense required to modify the existing program to accommodate this rebate.

SEN. ELLINGSON said this bill provides for totaling all of the fees under assessment fees, but he wondered if there were not other sources of revenue that the committee put into the bill, such as the application fee and a yearly percentage of the amount of the assets that were under administration by the depository. He asked if the amount in the bill is the annual assessment based on the assets, and not on the application fee, and **SEN. SPRAGUE** answered that the back of the Brief Overview showed that information about the program and what the fees are that are imposed upon a depository. **SEN. ELLINGSON** then asked if all the Department of Revenue had to deal with would be the 1.5% annual fee, and **SEN. SPRAGUE** said that was correct.

CHAIRMAN BOHLINGER said that it seems to him that what is needed is to have somebody aggressively market the program. He wondered if an amendment should be considered that would move this from the Department of Commerce to a private sector or some other entity with incentives to market the program, and **SEN. SPRAGUE** said he agreed with that, but that is not part of this legislation. He said his intention is to assure that any revenue generated from this program would be refunded to the citizens of Montana and not absorbed in other programs.

Closing by Sponsor:

SEN. SPRAGUE closed by saying that there is a keen amount of interest in this program. He said that he is going to Vancouver in June to go to an offshore wealth seminar to present Montana's program, and he said he will continue to do all he can to promote this. He said the purpose of **SB 426** is to assure that the revenue will be used as tax relief, as was intended in the original bill, and he feels that if that is not specified, it would be easy for the funds to be used for other things.

HEARING ON SB 424

Sponsor: **SENATOR VICKI COCCHIARELLA, SD 23, MISSOULA**

Proponents: **Jerry Driscoll, for his Mother-in-Law**
Bill Olson, AARP
Kelley Hubbard, MSCA

Opponents: None

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, Missoula, introduced **SB 424** as a bill which expands the household income threshold for eligibility for the elderly homeowner and renter property tax credit, and phases out the credit for claimants whose income is \$35,000 or more, and provides that the credit may not be claimed by a person whose household income is \$45,000 or more. She distributed a handout that was entitled "Important Notice Regarding Changes to Montana Form 2EC, Elderly Homeowner/Renter Credit," **EXHIBIT (tas40a03)**, and a letter from Mrs. Sexton of Missoula, **EXHIBIT (tas40a04)**.

SEN. COCCHIARELLA said that what happened in the last legislature is that this benefit was cut almost in half to most senior citizens, which saved some money, but also, unfairly, she thought, capped this amount. She said her hope is that this bill will not cut off at \$35,000 for those people, but will phase it out. She distributed a work sheet on this matter, **EXHIBIT (tas40a05)**. She pointed out that the second column indicates the number of taxpayers in the fourth column that are being taken care of, but she said that quite a number of taxpayers were dropped off last session, and this bill is an attempt to pick some of those back up by graduating that tax out. She said the bottom of page 2 of the bill shows how that will be done.

Proponents' Testimony:

Jerry Driscoll, said he works for several different organizations, but today he was appearing on behalf of his mother-in-law. He said it is a good idea to provide some relief for the elderly in the area of property taxes. He provided a copy of Form 2EC, which is used to apply for this credit, **EXHIBIT (tas40a06)**, and showed that the credit is determined by considering how much a person's property taxes are and how much income they have.

Bill Olson, AARP, said that the eligibility requirements for this credit are: 1) a person has to be 62 years of age or older, 2) a resident of Montana nine months out of the year, and 3) the \$35,000 cap. He said it is a program that seniors need to be made aware of and should take advantage of.

Kelley Hubbard, Montana Senior Citizens, said this is an issue that is near and dear to the hearts of senior citizens in

Montana. She said passage of this bill would be much appreciated.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EKEGREN said that tax relief for senior citizens is a good thing, but he wondered if the legislature should give some consideration to the needs of our young families, and **SEN. COCCHIARELLA** said she agreed with that thinking, and said that the renter credit that also is a part of this bill may address some of those concerns for young families. She said that the reason that the elderly are being considered in this bill is because they are usually on fixed incomes and trying to deal with having no opportunity to earn additional income to help accommodate the increase in property taxes.

SEN. ELLINGSON referred to the notice from the accountant which claims that gross income for purposes of this credit would include the actual amount that one received on the sale of property as opposed to the net gain, and asked if that was the definition of gross income under the current law. **SEN.**

COCCHIARELLA said she felt that the document he referred to was erroneous, and she provided a memo from Judy Paynter of the Department of Revenue to **REP. ARNOTT** regarding this matter, **EXHIBIT (tas40a07)**. **Mr. Heiman** said he agreed that in the definition of income it talks about the amount of capital gains excluded, which means that you have to look at the basis of the property in a sale.

SEN. ELLINGSON then asked if gross household income is used, that would be referring to the list at the top of the page on the income tax form which includes the net of business income, the net dividends, net capital losses and gains, which means it is a net figure that arrives at the gross income which would determine whether or not a person was eligible for the credit, and **Mr.**

Heiman said that as far as it goes, it is correct, and he referred to Subsection (9), 15-30-171, definitions, for further information. **SEN. ELLINGSON** said, then, that "income" refers to the federally adjusted gross income which does net out all of those factors.

SEN. STANG asked what change the legislature made in 1995 that lost this credit, and he said he was aware of the change from the amount of taxes billed to the amount of taxes paid. **Mr. Finch, Department of Revenue**, said that in the 1997 session the amount was capped at \$35,000 for gross household income. He said that prior to that there was no cap. The other change was that a

person was allowed to deduct either \$4,000 or the amount of line 7, which was half of a person's pension income, whichever was the larger, and that was changed to a flat amount of \$6,300 from their gross household income to arrive at net household income, which is the basis for eligibility. This allowed more households to have a larger amount of credit, but by capping it at \$35,000, some households were eliminated.

SEN. STANG then asked if the Department knew what the fiscal effect of that was, and **Mr. Finch** said he believed that the intent of these changes at that time was to keep the whole program revenue neutral, but that he would check and provide that information to the committee. **SEN. STANG** asked if **Mr. Finch** could also provide the number of taxpayers who were eligible for this tax credit in 1997 versus the number of people who will be eligible in 1998, and **Mr. Finch** said the Department would provide that.

SEN. ECK said she was still concerned about the notice that was sent out by the accountant, and wondered if they had interpreted the rules incorrectly. **Mr. Finch** said he would check with the Department's legal bureau. He said he had the statutes that define what gross household income is, but that he did not have a copy of the administrative rules which may supplement that definition and provide clarification to this issue. **SEN. ECK** asked if he would do that.

Closing by Sponsor:

SEN. COCCHIARELLA said that what she is trying to do is deal with the impact of the changes that were made that eliminated a lot of elderly homeowners from the program. She encouraged the committee's positive consideration of this matter.

NOTE: CHAIRMAN DEVLIN resumed the chair.

EXECUTIVE ACTION ON SB 426

Motion: **SEN. STANG** moved SB 426 DO PASS.

Discussion:

SEN. DEPRATU said that his only concern is that it does not nail down who can receive this, so that there is some assurance that it goes to the citizens of Montana. He suggested that a person would have to prove residency for the previous tax year.

SEN. ECK said that she was concerned about the Department of Revenue having to put a new line on the income tax form for this

and the expense involved with that. She said that she really felt this was not necessary at this time, since there is no revenue being generated.

CHAIRMAN DEVLIN said he felt that should any money come out of this program, this bill would become null and void and there would be a whole new bill and a majority vote and the legislature would determine where that revenue should go. He said he couldn't see a reason for the bill.

Substitute Motion/Vote: SEN. ELLIS made a substitute motion that SB 426 BE TABLED. Substitute motion failed 5-4, with Bohlinger, Ekegren, Ellingson, Stang and Depratu voting no.

Vote: DO PASS motion carried 7-2, with Devlin and Ellis voting no.

ADJOURNMENT

Adjournment: 9:00 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas40aad)